

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

FELIX M. PALACIOS

PETITIONER

v.

CIVIL ACTION NO. 3:19-CV-580-DCB-JCG

WARDEN, F.C.C. YAZOO CITY

RESPONDENT

ORDER

This matter is before the Court on Magistrate Judge John C. Gargiulo's Report and Recommendation [ECF No. 9]. No party filed objections to the Report and Recommendation, and the deadline for filing such objections has passed. Having carefully reviewed the Report and Recommendation, the petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 [ECF No. 1], the Respondent's Response in Opposition [ECF No. 8], the parties' other submissions, and applicable law, the Court finds the Report and Recommendation to be well taken.

Petitioner Felix M. Palacios, who is representing himself pro se, is presently incarcerated with the Federal Bureau of Prisons at the United States Penitentiary in Yazoo City, Mississippi. In his habeas corpus petition brought under 28 U.S.C. § 2241, Palacios argues that Rehaif v. United States, 139 S. Ct. 2191 (2019), should be applied retroactively to vacate

his 2010 conviction for possessing a firearm as a convicted felon in violation of 18 U.S.C. § 922(g). [ECF No. 1]. This is not Palacios's first attempt to use the holding of Rehaif to void his felon-in-possession conviction. In 2019, he was unable to persuade the United States Eleventh Circuit Court of Appeals on the same facts and substantively similar arguments.

In re Palacios, 931 F.3d 1314, 1315 (11th Cir. 2019) (Rehaif did not announce a new rule of constitutional law made retroactive to cases on collateral review). This Court is equally unpersuaded. The Magistrate Judge recommends that the petition be dismissed for lack of jurisdiction, and this Court agrees.

Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation [ECF No. 9] is ADOPTED as the findings and conclusions of this Court; and

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus [ECF No. 1] is DISMISSED for lack of jurisdiction.

A separate judgment will be entered in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED this the 17th day of December, 2020.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE